

Exhibit No. 14

Case No. 22-cv-00384-JSR

Declaration of Rhett O. Millsaps II In Further Support Of
Rothschild's Motion For Summary Judgment

August 29, 2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

HERMES INTERNATIONAL and HERMES OF
PARIS, INC.,

PLAINTIFFS,

-against-

Case No.:
22-cv-00384
(JSR)

MASON ROTHSCHILD,

DEFENDANT.

-----X

DATE: August 29, 2022
TIME: 8:30 A.M.

- CONFIDENTIAL -

REMOTE DEPOSITION of SCOTT DUKE
KOMINERS, Ph.D., taken by the Defendant,
pursuant to a notice and to the Federal
Rules of Civil Procedure, held remotely via
Zoom Videoconference, before Suzanne
Pastor, a Notary Public of the State of New
York.

August 29, 2022

A P P E A R A N C E S:

(All appearances via Zoom)

BAKER HOSTETLER

Attorneys for the Plaintiffs
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114
BY: DEBORAH A. WILCOX, ESQ.
216.861.7864
dwilcox@bakerlaw.com

LAW OFFICE OF LEX LUMINA PLLC

Attorneys for the Defendant
745 Fifth Avenue, Suite 500
New York, New York 10151
BY: RHETT O. MILLSAPS, II, ESQ.
646.898.2055
rhett@lex-lumina.com

ALSO PRESENT:

GAIL WHEELER, ESQ. Hermes Paris

* * *

August 29, 2022

1 A. Yes.

2 Q. Why did you go to the art
3 museum?

4 MS. WILCOX: Objection.

5 A. As with many of these things,
6 there are many different reasons depending
7 on the museum visit.

8 Q. Have you ever gone to an art
9 museum to look at art?

10 A. Again -- yes, I've gone to
11 museums to look at the works of the
12 museums.

13 Q. But you didn't consider those
14 works to be art?

15 MS. WILCOX: Objection.

16 A. As I said, I don't have strong
17 personal opinions on what is and is not
18 art.

19 Q. Would you consider Andy
20 Warhol's Campbell's Soup cans to be art?

21 A. I know that they are displayed
22 in art museums.

23 Q. Is that your definition of art,
24 whether something is displayed in an art
25 museum?

August 29, 2022

1 A. No.

2 Q. So art is broader than just
3 things that are displayed in art museums?

4 A. Again, speaking not
5 specifically to the NFT context, we already
6 talked about the term of art definition. I
7 apologize to keep repeating that pun. I
8 don't know what to call it other than a
9 "term of art."

10 Yeah, as I said, I don't have a
11 strong personal definition or expert
12 understanding of what is or is not art.

13 Q. Earlier, correct me if I'm
14 wrong, you said that art within the NFT
15 context can mean imagery. Am I correct
16 about that?

17 A. Yes. Imagery is one category
18 of what is referenced as art in the NFT
19 market.

20 Q. How is that different from one
21 of the categories of art just generally in
22 the world?

23 MS. WILCOX: Objection.

24 A. Again, so what do you mean by
25 "categories of art generally in the world"?

August 29, 2022

1 different question. Do you want me to
2 answer that one?

3 Q. That's a different question.
4 You can answer that one, please.

5 MS. WILCOX: Objection to it.

6 A. So as I said, I'm not an expert
7 in art and how it's defined in the world.
8 But my understanding, as I mentioned
9 earlier, is that it has a definition that's
10 conceptual. It refers to art as a concept.
11 Whereas here art refers to the asset, the
12 file. So not the conceptual -- not a
13 specific concept, but rather just an
14 object, irrespective of whether it has a
15 conceptual framing or not.

16 Q. Is imagery a concept?

17 MS. WILCOX: Objection.

18 A. What I'm saying is -- my
19 impression is it's a different concept from
20 what people mean when they say "art" in
21 this context of museums.

22 Q. You said, correct me if I'm
23 wrong, that art in the world of NFTs can
24 mean imagery. That imagery is one possible
25 meaning of art. Is that right?

August 29, 2022

1 Q. Other than that, did you
2 communicate with anyone?

3 A. I guess technically when I turn
4 my phone off airplane mode to order Uber
5 Eats, I saw I received a text message from
6 one of my students.

7 Q. Did you review any documents
8 during the break?

9 A. No. Although right before we
10 started I reread the paragraph that we had
11 been talking about right before we paused.

12 Q. Going back to that paragraph we
13 were talking about, paragraph 4, I just
14 want to make sure I understand. So if
15 there is utility associated with what you
16 call digital brand NFTs, am I right that
17 you're not saying that it can't be art in
18 the broader sense as the world understands
19 art?

20 A. Sorry, what's the "it" in this
21 context?

22 Q. Media associated with an NFT
23 that you have deemed a digital brand NFT
24 because it also has utility. Is it
25 possible that that media could be deemed to

August 29, 2022

1 be art in the broader sense as the world
2 understands art?

3 A. Yes.

4 Q. So I want to go to paragraph
5 31.B, which is where you refer to Adam Bomb
6 Squad and their NFT project.

7 A. Yes. What page are you on?

8 Q. It's paragraph 31.B. I don't
9 have the page number in front of me.

10 A. I have it.

11 Q. So here you say, "Fans of the
12 Hundreds, a street rare brand, might choose
13 to acquire the brand Adam Bomb Squad NFT
14 because it confers early access to new
15 product releases, as well as the
16 opportunity to attend events hosted by the
17 brand's founder." That's what you write
18 here in the report.

19 Is it possible that fans might
20 acquire the Adam Bomb Squad NFTs because
21 they're attracted to the art?

22 A. You mean the imagery associated
23 to the Adam Bomb Squad NFTs?

24 Q. Yes.

25 A. Yes, that is possible.

August 29, 2022

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF DELAWARE)

I, SUZANNE PASTOR, a Notary Public
for and within the State of New York, do
hereby certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this day, September 8, 2022.



SUZANNE PASTOR